

Douglas Scott and Vincent Schaurer, a Co-partnership d/b/a Centaur Electric a/k/a Centaur Electric Incorporated and Local 58, International Brotherhood of Electrical Workers, AFL-CIO.
Case 7-CA-31512

November 23, 1993

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND RAUDABAUGH

On August 9, 1991, the National Labor Relations Board issued a Decision and Order,¹ *inter alia*, ordering Douglas Scott, a sole proprietor d/b/a Centaur Electric a/k/a Centaur Electric Incorporated, to pay certain wages to unit employees, remit to the Union all dues and fees properly deducted from unit employees' pay, make contributions to the Union's fringe benefit funds, and make unit employees whole for losses they may have suffered resulting from their unfair labor practices in violation of the National Labor Relations Act. On May 20, 1992, the United States Court of Appeals for the Sixth Circuit entered its judgment enforcing the Board's Order.

A controversy having arisen over the amount of backpay due discriminatees, on August 17, 1993, the Regional Director for Region 7, issued a compliance specification and notice of hearing² alleging that Respondent Scott and Vincent Schaurer were a partnership at the time the unfair labor practices occurred, that the Respondent has not at any time material herein been a sole proprietorship, and that the partnership (the Respondent) is liable under the Board's Order. The specification further alleges the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

By letter dated September 16, 1993, the Regional Attorney advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by September 30, 1993, a Motion for Default Judgment would be filed. The Respondent filed no answer.

On October 22, 1993, the General Counsel filed with the Board a motion to transfer case to the Board

and for Default Summary Judgment on the pleadings, with exhibits attached. On October 26, 1993, the Board issued an Order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

Ruling on the Motion for Default Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Default Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true and grant the General Counsel's Motion for Default Summary Judgment. Accordingly, we conclude that the amounts due the employees and the funds is as stated in the compliance specification and we will order payment by the Respondent of the amounts in the manner described below.

ORDER

The National Labor Relations Board orders that the Respondent, Douglas Scott and Vincent Schaurer, a co-partnership d/b/a Centaur Electric a/k/a Centaur Electric Incorporated, Warren, Michigan, its officers, agents, successors, and assigns, shall pay the individuals and make contributions to the Union's fringe benefit funds set forth below the amounts following their names, plus interest and minus tax withholdings required by Federal and state laws for the backpay involved:

	<i>Backpay</i>
Kurt Odrobina	\$3,912.00
William Aquin	4,118.36
Doug Watson	5,540.72
Greg Coswell	1,177.40
Total:	\$14,748.48

¹ 303 NLRB 1047 (1991).

² The compliance specification that was sent to the Respondent by certified mail was returned to the Regional Office marked "unclaimed." However, the Respondent's failure or refusal to claim certified mail cannot serve to defeat the purposes of the Act. See, e.g., *Michigan Expediting Service*, 282 NLRB 210 fn. 6 (1986). Thereafter, the compliance specification was reserved on Respondent Scott and Respondent Schaurer at their business addresses by regular mail and again by certified mail at their home addresses.

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Fund Contributions

Dated, Washington, D.C. November 23, 1993

Electrical Workers Insurance Fund (for Vacation, Insurance, Unemployment, Pension and Annuity Funds)	\$16,480.81
National Electrical Benefit Fund	1,487.83
Electrical Training Trust Fund	159.54
Total Fund Contributions Due:	\$18,128.18

James M. Stephens,	Chairman
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Dennis M. Devaney,	Member
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John Neil Raudabaugh,	Member
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(SEAL) NATIONAL LABOR RELATIONS BOARD